**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO.832 OF 2005**
**IN**
**CHAMBER SUMMONS NO.810 OF 2005**
**IN**
**SUIT NO 2470 OF 2002**

Express Industrial Services Pvt.Ltd.& Ors. ..Appellants
V/s
Housing Development Corporation Ltd.& Ors. ..Respondents

Mr.D.P.Desai for the Appellants.

Mr.P.K.Samdani with Ms.Priya Dwarkadas i/by M/s.Wadia Ghandy & Co. for the Respondents.

**CORAM: DR.S.RADHAKRISHNAN &**
**S.C.DHARMADHIKARI, JJ.**

**DATE : 17.10.2005.**

**P.C.:**

1. By this Appeal, the Appellant is challenging the order dated 17.8.2005 passed by the learned Single Judge in the Chamber Summons No.810 of 2005. The limited argument of the learned Counsel for the Appellant is that the Appellant was not even allowed to file an affidavit in reply and for that purpose the learned Single Judge did not grant a short adjournment.

2. Having regard to the facts and circumstances of the case as the Chamber Summons was made returnable on 29th July, 2005 and the matter had already been adjourned once on 1st August, 2005, the learned Single Judge declined to grant adjournment for filing the affidavit in reply. We are of the view that an opportunity of filing the affidavit in reply ought to have been given to the Appellant.

3. Hence only on the limited ground to enable the Appellant to file an affidavit in reply, we set aside the impugned order dated 17th August, 2005 and direct the Appellant to file an affidavit in reply within a period of two weeks from today.

4. Both the parties are at liberty to move the learned Single Judge for expeditious hearing of the Chamber Summons. All the contentions of both the parties are kept open.

5. Appellant shall pay the costs quantified at Rs.5000/-.

6. Appeal stands disposed of in terms of the above.

**(DR.S.RADHAKRISHNAN, J.)**

**(S.C.DHARMADHIKARI, J.)**